IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12344 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

LAXMIBEN ALIAS LIMBUVALIA W/OFGANGARAM TUKARAM PAWAR

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 12344 of 2002

MS SUBHADRA G PATEL for Petitioner No. 1

MS NANDINI JOSHI, AGP for Respondent No. 1-3

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 16/05/2003

ORAL JUDGEMENT

The petitioner is a lady detenu. She has challenged her detention order dated 27-10-2002. By the said order, the petitioner is detained as a "bootlegger"

under Prevention of Anti Social Activities Act (for short "PASA"). Along with the order of detention, the petitioner is also served with the grounds of detention. In the grounds of detention, there is a reference of three criminal cases registered under Bombay Prohibition Act.

2) The detaining authority after having satisfied about the activities of the petitioner has detained her under preventive detention. The said order is under challenge at the instance of the detenu. It is submitted by the learned advocate for the petitioner that the petitioner is a widow lady aged about 70 years and that there is no justification in detaining her under preventive detention. However, the detaining authority after considering the material on record has satisfied itself that the activities of the petitioner is prejudicial to the public at large and this aspect cannot be re-appreciated by this Court in a petition under Article 226 of the Constitution of India. It is next argued by the learned advocate for the petitioner that there is a delay of about one month and seven days in passing the detention order from the date of last incident.

3) On behalf of the petitioner, it is submitted that the last case is registered against the petitioner on 19-9-2002 and the detention order is passed on 27-10-2002. It is submitted that, if really, the activities of the petitioner is required to be curbed immediately, it was not necessary to wait for such a long time for passing the order of detention. The detaining authority has not explained the delay in passing the detention order. The detaining authority has pointed out in the affidavit in reply that the petitioner is involved in various criminal cases registered under Bombay Prohibition Act and that her activities are against public interest. However, the delay is not explained in reply. In view of this the petition is required to be allowed.

4) This petition is allowed. The order of detention dated 27-10-2002 is quashed and set aside. The detenu, Laxmiben alias Limbuwali W/o. Gangaram Tukaram Pawar is ordered to be set at liberty forthwith, if she is not required in connection with any other case. Rule is made absolute.

(P.B.MAJMUDAR, J.)
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